



INDIANA UTILITY REGULATORY COMMISSION
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**IN RE AN EMERGENCY COMPLAINT)
AGAINST NORTHERN INDIANA PUBLIC)
SERVICE COMPANY ("NIPSCO") BY)
THE COUNTY OF LAPORTE INDIANA)
AND THE CITY OF MICHIGAN CITY)
INDIANA RELATING TO THE PRACTICES)
AND ACTS AFFECTING OR RELATING)
TO THE SERVICE OF NIPSCO AS BEING)
UNSAFE, UNREASONABLE AND)
INSUFFICIENT PURSUANT TO IC 8-1-2-54,)
AND REQUEST FOR COMMISSION)
INVESTIGATION PURSUANT TO IC 8-1-2-58)
AND REQUEST FOR AN INTERIM STATUS)
QUO ORDER)**

CAUSE NO. 42194

FILED

MAR 16 2004

INDIANA UTILITY
REGULATORY COMMISSION

You are hereby notified that on this date the Presiding Officers made the following entry in this Cause:

On February 13, 2004, the United Steel Workers of America ("USWA") filed a *Motion to Reopen Evidentiary Hearing* ("Motion") in the above captioned Cause. On February 23, 2004, Northern Indiana Public Service Company ("NIPSCO") filed the *Response of Indiana Public Service Company in Opposition to Motion to Reopen the Evidentiary Record* ("Response").

While not cited in the Motion, 170 IAC 1-1.1-22 governs our consideration of the posthearing relief requested by USWA, and states in pertinent part as follows:

- (a) At any time after the record is closed, but before a final order is issued, any party to the proceeding may file with the commission and serve upon all parties of record a petition to reopen the proceeding for the purpose of taking additional evidence.
- (b) A petition to reopen the record shall set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including the following:
 - (1) Material changes of fact or law alleged to have occurred since the conclusion of the hearing.
 - (2) The reason or reasons such changes of fact or law could not have been reasonably foreseen by the moving party prior to the closing of the record.
 - (3) A statement of how such changes of fact or law purportedly would affect the outcome of the proceeding if received into evidence.
 - (4) A showing that such evidence will not be merely cumulative.

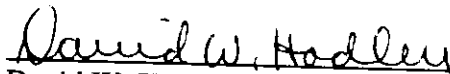
A petition to reopen the record shall be verified or supported by affidavit.

170 IAC 1-1.1-22


In its unverified Motion, Counsel for the USWA indicates *inter alia*, that since the conclusion of the Evidentiary Hearing new evidence has developed that directly affects merits of NIPSCO's decision to close various facilities. Motion at 1. The USWA states that it is prepared to submit newly discovered evidence relating to the issue of public safety. According to USWA the additional evidence it seeks to admit consists of NIPSCO generated documents that show that the outlying electric servicemen are responsible for a majority of the automobile accidents involving NIPSCO vehicles. Motion at 2. The USWA also proposes to submit additional evidence regarding the recent failure of outlying servicemen to make certain situations safe. *Id.*

The Presiding Officers, having reviewed the Motion and Response, find that the presentation of the additional evidence identified by USWA on the issue of public safety would be cumulative to a record that is replete with evidence on this issue. Therefore, USWA's Motion is hereby DENIED.

IT IS SO ORDERED.




David W. Hadley, Commissioner



Scott R. Storms, Chief Administrative Law Judge

Date ~~MAR 16 2004~~



Mary M. Becerra, Acting Secretary to the Commission